RESOLUTION NO. 2013-93

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING UPDATING THE CITY'S INTERNAL "RENEWABLE PORTFOLIO STANDARDS ENFORCEMENT PROGRAM AND RENEWABLE ENERGY RESOURCES PROCUREMENT PLAN".

WHEREAS, the City of Banning owns and operates its Municipal Electric Utility; and

WHEREAS, in deference to California State Senate Bill X 1-2 ("SBX1 2"), on December 13, 2011 the City Council adopted Resolution No. 2011-99 which approved the City of Banning's Renewable Portfolio Standards ("RPS") Enforcement Program and Renewable Energy Resources Procurement Plan; and

WHEREAS, the California Energy Commission ("CEC") recently adopted its Enforcement Procedures for the Renewable Portfolio Standard for Local Publicly Owned Electric Utilities, codifying how the publicly owned utilities are to comply with SBX1 2 and giving publicly owned utilities until November 30, 2013 to update their RPS plans; and

WHEREAS, the City of Banning desires to adopt a Cost Limitations Policy that limits the impact that the State of California's Renewable Portfolio Standards program can have on retail customer rates; and

WHEREAS, the City of Banning desires to add the optional compliance measure allowing for the reduction of the portfolio balance requirement for Portfolio Content Category 1 for a specific compliance period; and

WHEREAS, Banning's City Council desires to update the City of Banning's RPS Enforcement Program and Renewable Energy Resources Procurement Plan to incorporate the provisions of the CEC's Enforcement Procedures for the Renewable Portfolio Standard for Local Publicly Owned Electric Utilities, to clarify and adopt the City's RPS Cost Limitations policy, and to authorize the use of the optional compliance measure allowing for the reduction of the portfolio balance requirement for Portfolio Content Category 1.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Banning as follows:

<u>SECTION 1.</u> Adopt Resolution No. 2013-93 updating the City of Banning's "RPS Enforcement Program and Renewable Energy Resources Procurement Plan", attached herewith as Exhibit "A".

<u>SECTION 2</u>. Authorize the Electric Utility Director, or his/her designee, to administer and ensure compliance with said updated RPS Enforcement Program and Renewable Energy Resources Plan. This authorization includes the authority to take the appropriate steps to facilitate the use of the City's RPS Cost Limitations policy if necessary.

PASSED, ADOPTED AND APPROVED this 12th day of November 2013.

City of Banning

ATTEST:

Marie A. Calderon, City Clerk

City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

David J. Aleshire, City Attorney

Aleshire and Wynder, LLP

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-93 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 12th day of November 2013 by the following vote, to wit:

AYES:

Councilmembers Miller, Peterson, Welch, Mayor Franklin

NOES:

None

ABSTAIN:

None

ABSENT:

None

Marie A. Calderon, City Clerk City of Banning, California

Resolution No. 2013-93 Exhibit "A"

Enforcement Program

Section 1: Program for Enforcement of Compliance with SBX1 2 Procurement Obligation

The City Council of the City of Banning directs the Banning Electric Utility department to procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, and to adopt and implement all other measures as necessary to comply with California Senate Bill X1 2 (SBX1 2), within the parameters detailed in the City's Renewable Energy Resources Procurement Plan.

If the renewable energy procurement targets specifically referenced within SBX1 2 are not being met, then the Electric Utility Director must review the City of Banning's Renewable Energy Resources Procurement Plan for potential modifications. This review will include accessing the application of the Optional Compliance Measures described in California Code of Regulations, Title 20, Division 2, Chapter 13, Section 3206. If the Electric Utility Director determines that any of the Optional Compliance Measures are applicable, then the Electric Utility Director will have the authority to implement and apply such Optional Compliance Measures. If the Electric Utility Director determines that the Optional Compliance Measures will not cure the renewable energy procurement shortfall, then the Electric Utility Director shall provide an update to the City Council on the status of the renewable energy procurement program.

Section 2: Procedure for Adoption

The direction to procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits and to adopt and implement all other measures as necessary to comply with SBX1 2 is adopted by the City Council of the City of Banning in accordance with the procedures specified in PUC § 399.30(f) by January 1, 2012 in accordance with PUC § 399.30(e).

Section 3: Incorporation of Other Documents

The City of Banning's Enforcement Program is intended to be utilized in conjunction with the City of Banning's Renewable Energy Resources Procurement Plan. As such, the City of Banning's Renewable Energy Resources Procurement Plan is incorporated herein by reference.

Section 4: Modifications

This RPS Enforcement Program may be modified by an affirmative vote of the City Council of the City of Banning.

Renewable Energy Resources Procurement Plan

Section 1: Definitions

The definitions set forth in Public Utilities Code (PUC) § 399.12 and California Code of Regulations, Title 20, Division 2, Chapter 13, Section 3201 are incorporated herein.

The following definitions shall also apply to the City of Banning Electric Utility's Renewable Energy Resources Procurement Plan:

Procurement Plan: The renewable energy resources procurement plan adopted by the City of Banning pursuant to PUC § 399.30(a) and in compliance with CCR Section 3205(a).

CCR: California Code of Regulations, Title 20, Division 2, Chapter 13.

Energy Commission: The California Energy Commission, formerly known as the State Energy Resources Conservation and Development Commission.

Section 2: Procurement

In order to fulfill unmet long-term generation resource needs, the City of Banning's Electric Utility shall procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of total kilowatt hours sold to the City of Banning Electric Utility's retail end-use customers for each compliance period specified in Section 3 to achieve the targets specified in Section 4.

Section 3: Compliance Periods

The compliance periods as required by PUC § 399.30(b) are:

Compliance Period One: January 1, 2011 through December 31, 2013

Compliance Period Two: January 1, 2014 through December 31, 2016

Compliance Period Three: January 1, 2017 through December 31, 2020

Annually each calendar year starting with 2021.

Section 4: Procurement Targets

The City of Banning Electric Utility shall procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of total kilowatt hours sold to the City of Banning Electric Utility's retail end-use customers to achieve the following targets, pursuant to CCR Section 3204(a):

Compliance Period One:

• An average of not less than 20 percent of retail sales during the compliance period.

Compliance Period Two:

 20 percent of 2014 retail sales, 20 percent of 2015 retail sales, and 25 percent of 2016 retail sales.

Compliance Period Three:

• 27 percent of 2017 retail sales, 29 percent of 2018 retail sales, 31 percent of 2019 retail sales, and 33 percent of 2020 retail sales.

All Years Subsequent to 2020:

• 33 percent of retail sales in each calendar year subsequent to 2020.

Section 5: Procurement Content Categories

The Electric Utility Director shall assign all RPS-eligible resources procured by the City of Banning Electric Utility to their appropriate procurement content category in accordance with the provisions of PUC § 399.30(c)(3), consistent with PUC § 399.16 and CCR Section 3203.

Section 6: Grandfathering of Procurement Content Category Requirements

Consistent with PUC § 399.16(d), the Electric Utility Director of the City of Banning Electric Utility may count all resources that meet the conditions of PUC § 399.16(d) in full towards meeting the procurement requirements set forth in the Procurement Plan.

Section 7: Delay of Timely Compliance

The City Council may adopt measures permitting the Banning Electric Utility department to delay timely compliance with the City of Banning's RPS Enforcement Program pursuant to PUC § 399.30(c)(2), consistent with the requirements of PUC § 399.15(b)(5) and CCR Section 3206(a)(2).

Section 8: Excess Procurement

The City Council may adopt measures permitting the Banning Electric Utility department to accumulate, beginning January 1, 2011, excess procurement in one compliance period to be applied to any subsequent compliance period provided that the quantity of excess procurement is determined in the same manner as allowed for retail sellers pursuant to PUC § 399.13(a)(4)(B) and consistent with CCR Section 3206(a)(1).

Section 9: Cost Limitations

The City Council may establish and amend a limitation on the procurement expenditures for all RPS-eligible resources used to comply with the Banning Electric Utility department's Procurement Plan. In establishing such limit, the City Council shall rely on factors specified in PUC § 399.15(c)(1)-(3) and ensure compliance with PUC § 399.15(d) and CCR Section 3206(a)(3).

Background:

The Banning Electric Utility is one of the smaller POUs in California and as such additional costs and expenditures can have a pronounced impact upon the Electric Utility's retail customer rates. Accordingly, the Electric Utility has experienced a 56% increase in retail customer rates since 2007. A significant portion of this increase is due to the acquisition of renewable energy, increased CAISO transmission costs, rising reliability/capacity costs, and compliance costs associated with the State of California's cap and trade program.

Additionally, the City of Banning is located in an economically disadvantaged area. A significant portion of the City's population is either low income or senior citizens living on a fixed income.

The Banning Electric Utility is currently fully resourced, with 65% of its energy coming from the San Juan Generating Station Unit 3 ("San Juan") coal plant. The Electric Utility is currently in negotiations to divest itself of San Juan, with the anticipation that San Juan Unit 3 will be shut down by 2018. Once the Electric Utility has divested itself of the San Juan resource, the Electric Utility will replace the energy previously procured from San Juan with energy from renewable resources.

City Council Adopted Cost Limitations Policy:

The Electric Utility will not procure any additional renewable energy until the Electric Utility determines that it has unmet long-term generation needs (anticipated to be 2018), unless such procurement would not result in an increase to retail customer rates. Given that the City's retail customers have already experienced significant rate impacts since 2007, any additional costs would contribute to disproportionate rate impacts and potentially create economic hardships for many of the City's customers.

Section 10: Public Notice

The Banning Electric Utility department staff shall post a public notice whenever the Banning City Council will deliberate in public on the Renewable Energy Resources Procurement Plan.

Section 11: Unmet long-term needs

Consistent with § 399.30(a), the Banning Electric Utility department shall determine its unmet long-term generation resource needs.

Section 12: Reporting

The Banning Electric Utility department shall provide data and reports to the Energy Commission in accordance with CCR Section 3207.

Section 13: Historical Carryover

The Electric Utility Director of the City of Banning may use excess renewable energy procured prior to January 1, 2011 as Historical Carryover to be applied towards Compliance Period One procurement targets, in accordance with CCR Section 3206(a)(5).

Section 14: Portfolio Balance Requirement Reduction

The City Council may adopt measures permitting the Banning Electric Utility department to reduce the portfolio balance requirement for Portfolio Content Category 1 for a specific compliance period consistent with the requirements of PUC § 399.16(e) and CCR Section 3206(a)(4).

Section 15: Modifications

This Procurement Plan may be modified by an affirmative vote of the City Council of the City of Banning.